In the Official Action, the Examiner approves the drawing changes from the previous response and requests a proper drawing correction in order to avoid abandonment of the application. In response, the corrected drawings have been resubmitted herewith in a clean version. The version with markings to show changes made was submitted in the previous Response. Consequently, it is respectfully requested that the objection to the drawings be withdrawn.

In the Official Action, the Examiner has withdrawn the previous rejections in favor of new rejections under 35 U.S.C. § 103(a). Specifically, the Examiner now rejects claims 1-4 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,365,451 to Wang et al., (hereinafter "Wang"). In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 103(a) for at least the reasons set forth below.

In the previous response, claims 1 and 3 were amended to emphasize that the locating system and the method for locating an object employ a data carrier located in an area and an information unit which transmits area information to the data carrier, wherein **a third party interrogates the information unit for the position of the data carrier**. Applicants previously argued that Wang neither disclosed nor suggested the feature of the third party interrogating the information unit for the position of the data carrier. In the Final Official Action, the Examiner considers the mobile units 16 of Wang to be the data carrier and the gateways 14 of Wang to be the information units and argues that since the gateways 14 have input devices and displays, "a third party **can** obviously interrogate the information unit ... for the position of the at least one data carrier in order to keep the human workers knowledgeable of events as they occur" (emphasis added).

Applicants respectfully submit that Wang neither expressly discloses the input devices being used for interrogating the gateways for the location of the mobile units nor a suggestion of a need for human workers to know of events relating to the locations of the mobile units 16. The Wang patent merely discloses that the location information of the mobile units is used by the system itself (including gateways 14) for purposes of frequency allocation, billing, tax, and for best routing a call through satellites 12. All of these parameters are used internally and automatically in the system of Wang, and thus, there would be no need for human workers to query the gateways 14 for location information of the mobile units 16.

Furthermore, the Examiner seems to argue that it would have been obvious to those skilled in the art at the time of the invention for a third party to interrogate the gateways 14 of Wang because such a third party **could** interrogate the gateways 14 because the gateways were supplied with an input device and a display. However, the Court of Appeals for the Federal Circuit has held that simply because such knowledge "may" have been within the skill of those in the art, such does not "make it so, absent clear and convincing evidence of such knowledge." Smiths Indus. Medical Sys., Inc. v. Vital Signs, Inc., 183 F.3d 1347 (Fed. Cir. 1999).

Thus, Applicants respectfully submit that:

(1) there is no disclosure in Wang of a third party interrogating the gateways 14 for the location of the mobile units 16, and

(2) the Examiner has used impermissible hindsight to reject claims 1-4 under 35 U.S.C. § 103(a) because there is no suggestion in Wang of a third party interrogating the gateways 14 for the location of the mobile units 16 and the Examiner has not identified the

level of skill in the art at the time of the invention by clear and convincing evidence which would lead to such a conclusion.

With regard to item (1) above, independent claims 1 and 3 are not rendered obvious by the cited references because the Wang patent, whether taken alone or in combination with the knowledge of one of ordinary skill in the art, does not teach or suggest a method of locating an object having the features described above. Accordingly, claims 1 and 3 patentably distinguish over the prior art and are allowable. Claims 2 and 4, being dependent upon claims 1 and 3 are thus allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-4 under 35 U.S.C. § 103(a).

With regard to item (2) above, in light of the state of the law as set forth by the Federal Circuit and the Examiner's lack of specificity with regard to the level of skill in the art at the time of the invention, applicants respectfully submit that the rejections for obviousness under 35 U.S.C. 103(a) lack the requisite motivation and must be withdrawn.

Attached hereto is a marked-up version of the changes made to the application by the current amendment. The attached page is captioned **"Version with Markings to Show Changes Made."**

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be

allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,

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TS/cm
Encl. (Clean copies of Figures 1-3)